Supreme Court, U.S.
FILED
991355 AUG 16 1999
NO.
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

ROD LEE SMITH,

PETITIONER

v.

STATE OF TEXAS, TEXAS ATTORNEY GENERAL OFFICE, CHILD SUPPORT ENFORCEMENT DIVISION, DAN MORALES, MARK K. MORRIS, AND PAT FREEMAN

RESPONDENT.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF TEXAS

PETITION FOR WRIT OF CERTIORARI

ROD LEE SMITH, PRO SE
3620 KENWOOD DRIVE
WACO, TEXAS 76706
(254) 662-4610 HOME PH.
(254) 776-6536 WORK PH.

27 PP

I

QUESTIONS PRESENTED FOR REVIEW

1. THE 19TH DISTRICT COURT OF MCLENNAN COUNTY, WACO, TEXAS WAS THE LAST COURT TO REVIEW THE MERITS OF THIS CASE AND IT RENDERED A JUDGMENT IN OPPONENTS' FAVOR, WHEN ALL THEIR ESSENTIAL ELEMENTS IN THEIR DEFENSES LEFT NO ISSUES OF MATERIAL FACTS, AS A MATTER OF LAW. DUE TO THE 19TH DISTRICT COURT'S RULING ON IT'S DISCRETION RATHER THAN BY A LAW OR STATUTE, HAS IT DEPRIVED PETITIONER OF FEDERAL AND STATE CONSTITUTIONAL RIGHTS? **(THE SEVENTH AND FOURTEETH AMENDMENTS OF THE U. S. CONSTITUTION).**

2. WHEN THE 19TH DISTRICT COURT OF MCLENNAN COUNTY, WACO, TEXAS ENTERED A FINAL JUDGMENT OF PETITIONER'S SUIT, IT FAILED TO NOTIFY PETITIONER. THIS ACTION BY THE COURT DEPRIVED PETITIONER THE RIGHT TO BE HEARD BY THE COURT. TEXAS LAW **(TEXAS RULES OF CIVIL PROCEDURE, TRCP 306A (3) (4) TRCP 165A)** REQUIRES THAT IF A NOTICE OF JUDGMENT IS NOT SENT, IT DEPRIVES A PERSON OF HIS RIGHT TO BE HEARD BY THE COURT AND SUCH AN OMISSION CONSTITUTES A VIOLATION OF A RIGHT TO DUE PROCESS. DOES THIS VIOLATION VIOLATE THE FOURTEENTH AMENDMENT OF THE CONSTITUTION DEPRIVING PETITIONER OF DUE PROCESS OF LAW AND EQUAL PROTECTION OF THE LAW?

3. THE 19TH DISTRICT COURT DID NOT HOLD A HEARING TO EXTEND THE EFFECTIVE DATE OF JUDGMENT, WHEN THE COURT KNEW THAT PETITIONER WAS NOT NOTIFIED PROPERLY OF THE FINAL JUDGMENT. TEXAS LAW REQUIRES THE COURT TO HOLD A HEARING ON A MOTION TO EXTEND THE EFFECTIVE DATE OF JUDGMENT.

(CANTU V. LONGORIA, 878 S.W. 2D 131, 132 (TEX. 1994). AGAIN, DOES THE ABOVE ACTION OF THE COURT VIOLATE THE FOURTEENTH AMENDMENT FOR NOT GRANTING PETITIONER EQUAL PROTECTION TO THE LAW?

4. DUE TO THE 19TH DISTRICT COURT'S ACTION IN QUESTIONS #1, #2, AND #3, PETITIONER WAS UNABLE TO FILE A MOTION FOR NEW TRIAL, BECAUSE IT MUST BE FILED WITHIN 30 DAYS OF THE DATE THE JUDGMENT WAS SIGNED. PETITIONER CONTACTED THE COURT ON MANY OCCASIONS IN PERSON AND BY PHONE, ATTEMPTING TO OBTAIN THE FINAL JUDGMENT OF THE COURT, BUT WAS UNABLE TO. **TRCP 329 B (A), JAMAR V. PATTERSON, 868 S. W. 2D 318 (TEX. 1993); BENYO V. HEM., 833 S. W. 2D 714, 715 (TEX. APP.—HOUSTON [1ST DIST.] 1992, NO WRIT) AND ALBERTSON'S INC. V. SINCLAIR, S. W. 2D, (TEX. 1999).** A MOTION FOR NEW TRIAL FILED MORE THAN 30 DAYS AFTER JUDGMENT IS A NULLITY AND CANNOT BE CONSIDERED BY THE APPELLATE COURT **(EQUINOX EXTERPRISES, INC. V. ASSOCIATED MEDIA, INC., 730 S. W. 2D 872, 875 (TEX. APP.—DALLAS 1987, NO WRIT) (AMENDED MOTION).** THE APPELLATE COURT (TENTH COURT OF APPEALS, MCLENNAN COUNTY COURT HOUSE, WACO, TEXAS, 76703-1606) DISMISSED PETITIONER'S CASE, DUE TO WANT OF JURISDICTION. HAVE THE ACTIONS OF THE TENTH COURT DENIED PETITIONER THE EQUAL PROTECTION OF THE LAWS WITHIN IT'S JURISDICTION?

5. CAN A STATE DISTRICT JUDGE FAIL TO NOTIFY PETITIONER OF IT'S JUDGMENT AND LATER DENY PETITIONER OTHER JUDICAL RIGHTS OF THE COURT, BECAUSE PETITIONER WASN'T AWARE OF THE COURT'S JUDGMENT AND CAUSED THE HIGHER COURTS TO LOSE JURISDICTION? **(SEE APPENDIX D AND E).**

6. SHOULD THE SUPREME COURT OF TEXAS DENY "PETITIONER'S PETITION FOR REVIEW " WHEN THE LOWER COURTS DENIED PETITIONER DUE PROCESS?

7. ABUSE AND CLEAR PREJUDICIAL ERROR OF LAW WAS MADE BY THE 19TH DISTRICT COURT, BECAUSE IT REFUSED TO ALLOW PETITIONER DISCOVERY ON FIVE OCCASIONS (3-8-95, 6-17-97, 7-24-97, 8-11-97 AND 5-26-98). **SEE DOCKET SHEET) APPENDIX F.** THE COURT ALSO DENIED PETITIONER A JURY TRIAL AS REQUESTED. THESE ACTIONS WERE DONE TO PROTECT RESPONDENTS. THE COURT DID NOT ALLOW PETITIONER FAIR AND EQUAL OPPORTUNITY TO THE LAW. IS THIS ALSO A CONSTITUTIONAL VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS AND EQUAL OPPORTUNITY TO STATE AND FEDERAL LAWS? **JOHNSON V. FOURTH COURT OF APPEALS, 700 S. W. 2D 916, 917 (TEX. 1985); (SMITH V. O'NEAL, 850 S. W. 2D 797,799 (TEX. APP - HOUSTON [14TH DIST.] 1993, N. W. H.), HOBSON V. MOORE, 734 S. W. 2D 340, 341 (TEX. 1987) AND DUNN EQUIP. V. GAYLE, 725 S. W. 2D 372, 374 (TEX. APP - HOUSTON [14TH DIST.] 1987. HAMMOND PACKING CO. V. ARKANSAS, 1909, 29 S. CT. 370, 212 U. S. 322, 53 L. ED. 530, 15 ANN. CAS. 645. RULE 34-37, FEDERAL CIVIL JUDICIAL PROCEDURE AND RULES.**

LIST OF PARTIES

[ ] ALL PARTIES APPEAR IN THE CAPTION OF THE CASE ON THE COVER PAGE.

TABLE OF CONTENTS

OPINIONS BELOW 1

JURISDICTION 1

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 1

STATEMENT OF THE CASE 2

REASONS FOR GRANTING THE WRIT 3

CONCLUSION 4

INDEX TO APPENDICES

APPENDIX A ORDER OF THE SUPREME COURT OF TEXAS DENYING REHEARING 5

APPENDIX B MANDATE FROM THE COURT OF APPEALS FOR THE TENTH COURT OF TEXAS 6

APPENDIX C ORDER OF THE SUPREME COURT OF TEXAS DENYING PETITION FOR REVIEW 7

APPENDIX D LETTER FROM THE 19TH DISTRICT COURT, MCLENNAN COUNTY, STATING THE COURT FAILED TO SEND PETITIONER THE COURT'S FINAL JUDGMENT ..... II, 8

APPENDIX E COURT'S REPORTER'S RECORD

INDICATING THE JUDGE'S STATEMENT TO NOTIFY PETITIONER OF THE COURT'S JUDGMENT.....II, 9

APPENDIX F DOCKET SHEET.....II, 10

TABLE OF AUTHORITIES CITED

PAGE NUMBER

CASES

ALBERTSON'S INC. V. SINCLAIR,
S. W. 2D, (TEX. 1999)..... I

BENYO V. HEM.,
833 S. W. 2D 714, 715 (TEX. APP. - HOUSTON [1ST DIST.] 1992, NO WRIT)..... I

CANTU V. LONGORIA,
878 S. W. 2D 131, 132 (TEX. 1994)..... I

COMMISSIONER OF INTERNAL REVENUE V. BEDFORD'S ESTATE,
1945, 65 S. CT. 1157, 325 U. S. 283, 91 L. ED. 1611..... I

CRAIG V. THE HARTFORD,
C. C. COL. 1856, FED. CAS. NO. 3,333..... I

DUNN EQUIP. V. GAYLE,
725 S. W. 2D 372, 374 (TEX. APP - HOUSTON [14TH DIST.] 1987.....II

EQUINOX EXTERPRISIS, INC. V. ASSOCIATED MEDIA, INC.,
730 S. W. 2D 872, 875 (TEX. APP - DALLAS 1987, NO WRIT).....II

FOWLER V. HAMILL,
1891, 11. S. CT. 663, 139 U. S. 549, 35 L. ED. 266.....I

HAMMOND PACKING CO. V. ARKANSAS,
1901, 29 S. CT. 370, 212 U. S. 322, 53 L. ED. 530, 15 ANN. CAS. 645.....II

HOBSON V. MOORE,
734 S. W. 2D 340, 341, (TEX. 1987).....II

HUBERT,
867, S. W. 2D AT 163.....1, 2

JAMAR V. PATTERSON,
868 S. W. 2D 318, 319 (TEX. 1993).....1, 2

JOHNSON V. FOURTH COURT OF APPEALS,
700 S. W. 2D 916, 917 (TEX. 1985).....II

SMITH V. O'NEAL,
850 S. W. 2D 797, 799 (TEX. APP - HOUSTON [14TH DIST.] 1993, N. W. H).....II

TUTTLE V. CLAFLIN,
C. C. A. 2, 1895, 60 F. 7, CERTIORARI DENIED 17 S. CT. 992, 166 U. S. 721, 41 L. ED. 1188.....1, 2

UNITED STATES V. NORDBYE,
C. C. A. 8, 1935, 75 F. 2D, 744, 746.....1, 2

CODES, RULES, AND STATUTES

TEXAS R. CIV. P. 21A.....1

TEXAS R. CIV. P. 306A.....II, 1

TEXAS R. CIV. P. 306A(3).....I, 1

TEXAS R. CIV. P. 306A(4).....1

TEXAS R. CIV. P. 329B.....I,1

FEDERAL CIV. JUDICIAL P. AND R. 34.....II, 2

FEDERAL CIV. JUDICIAL P. AND R. 35.....II, 2

FEDERAL CIV. JUDICIAL P. AND R. 36.....II, 2

FEDERAL CIV. JUDICIAL P. AND R. 37.....II, 2

OTHER

UNITED STATES CONSTITUTION
(7TH AND 14TH AMENDMENTS).....I

NO._____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

ROD LEE SMITH --- PETITIONER

VS.

STATE OF TEXAS, TEXAS ATTORNEY GENERAL OFFICE, CHILD SUPPORT ENFORCEMENT DIVISION, DAN MORALES, MARK K. MORRIS, AND PAT FREEMAN

--- RESPONDENTS

PROFF OF SERVICE

I,_____, DO SWEAR OR DECLARE THAT ON THIS DATE, AUGUST 20, 1999, AS REQUIRED BY SUPREME COURT RULE 29 I HAVE SERVED THE ENCLOSED PETITION FOR A WRIT OF CERTIORARI ON THE ABOVE PARTY'S COUNSEL, BY DEPOSITING AN ENVELOPE CONTAINING THE ABOVE DOCUMENTS IN THE UNITED STATES MAIL PROPERLY ADDRESSED WITH FIRST-CLASS POSTAGE PREPAID.

THE NAMES AND ADDRESSES OF THOSE SERVED ARE AS FOLLOWS:

JAMES B. PINSON, ASST. ATTORNEY GENERAL, GENERAL LITIGATION DIVISION P.O. BOX 12548, CAPITOL STATION, AUSTIN, TEXAS 78711-2548.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON _____, 1999.

_____

ROD LEE SMITH

IN THE

SUPREME COURT OF THE UNITED STATES

Petition For Writ Of Certiorari

PETITIONER RESPECTFULLY PRAYS THAT A WRIT OF CERTIORARI ISSUE TO REVIEW THE JUDGMENT BELOW.

OPINIONS BELOW

THE OPINION OF THE TEXAS SURPREME COURT OF TEXAS APPEARS AT APPENDIX A TO THE PETITION AND IS UNPUBLISHED.

JURISDICTION

A TIMELY PETITION FOR REHEARING WAS THEREAFTER DENIED ON THE FOLLOWING DATE: MAY 20, 1999, AND A COPY OF THE ORDER DENYING REHEARING APPEARS AT APPENDIX A.

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U. S. C. SECTION 1257(A).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

(THE SEVENTH AND FOURTEETH AMENDMENTS OF THE U. S.CONSTITUTION) THE RIGHT OF TRIAL BY JURY SHALL BE PRESERVED AND NO STATE CAN DEPRIVE ANY PERSON OF LIFE, LIBERTY OR PROPERTY, WITHOUT DUE PROCESS OF LAW, NOR DENY ANY PERSON WITHIN IT'S JURISDICTION THE EQUAL PROTECTION OF THE LAWS. PETITIONER WAS VIOLATED THESE ABOVE RIGHTS.

STATE LAWS WERE ALSO VIOLATED AND THEY WERE TEXAS RULES OF CIVIL PROCEDURE, RULE 21A, 306A (3)(4) AND RULE 329B, WHICH INDICATE THE LAWS ON HOW THE COURT SHOULD NOTIFY PARTIES AFTER A JUDGMENT IS SIGNED. SEE APPENDIX D. REQUEST FOR DISCOVERY RULES WERE ALSO VIOLATED. SEE APPENDIX F, FEDERAL CIVIL JUDICIAL PROCEDURE AND RULES #34,35,36, AND 37. RULES 166C AND RULE 167 OF THE TEXAS RULE OF CIVIL PROCEDURE WERE VIOLATED. VIOLATIONS OF DISCOVERY PROCEDURE DENIED DUE PROCESS TO PETITIONER. THE LOWER COURTS FAIRNESS AND PROCEDURES WERE ALSO AN ETHICAL VIOLATION.

STATEMENT OF THE CASE

PETITIONER, ROD SMITH FILED SUIT AGAINST RESPONDENTS, STATE OF TEXAS, TEXAS ATTORNEY GENERAL'S OFFICE, CHILD SUPPORT ENFORCEMENT DIVISION, ET. AL., FOR RECOVERABLE DAMAGES, DUE TO THE STATE'S LIABILITY FOR KNOWINGLY MAKING FALSE STATEMENTS AND SUBMITTING FRAUDULENT INFORMATION INTO THE 19TH DISTRICT COURT, MCLENNAN COUNTY, UNDER CAUSE #95-314-1, (JUDGE BILL LOGUE); THE TENTH COURT OF APPEALS, AT WACO ON TWO OCCASIONS UNDER CAUSE #10-95-210-CV, AND #10-97-297-CV. THE TENTH COURT REVERSED BOTH CASES AND REMANDED THEM BACK TO THE LOWER COURT.

ON 8-25-98, THE 19TH DISTRICT COURT, MCLENNAN COUNTY, UNDER CAUSE #95-314-1, AGAIN DISMISSED THE CASE WITH PREJUDICE, (JUDGE BILL LOGUE). PETITIONER, ROD SMITH APPEALED TO THE TENTH COURT OF APPEALS AND ON 12-23-98, CHIEF JUSTICE DAVIS, CUMMINGS, AND VANCE DISMISSED PETITIONER'S CASE FOR WANT OF JURISDICTION, BECAUSE PETITIONER'S

NOTICE OF APPEAL WAS UNTIMELY. THE JUSTICES ORDERED THE CASE NOT TO BE PUBLISHED. PETITIONER DID FILE A NOTICE OF APPEAL IN A TIMELY MANNER, BECAUSE THE LOWER COURT DELIBERATELY FAILED TO NOTIFY PETITIONER OF THE FINAL NOTICE OF JUDGMENT, AFTER NUMEROUS REQUESTS. THIS ACT VIOLATED PETITIONER'S RIGHT TO DUE PROCESS. PETITIONER FILED A PETITION FOR REVIEW IN THE SUPREME COURT OF TEXAS AND IT WAS DENIED. A REHEARING WAS THEN FILED AND IT WAS OVERRULED ON MAY 20, 1999. ON AUGUST 20, 1999, THIS PETITION FOR A WRIT OF CERTIORARI WAS FILED WITH THE U. S. SUPREME COURT.

REASONS FOR GRANTING THE PETITION

THE LOWER COURT (COURT OF APPEALS FOR THE TENTH DISTRICT OF TEXAS) DISMISSED PETITIONER'S SUIT "FOR WANT OF JURISDICTION". DUE TO THIS ACTION BY THE COURT, PETITIONER HAD NO TIME TO FILE FOR A NEW TRIAL AND NO TIME TO PERFECT AN APPEAL. THIS ACTION ALSO MADE THE COURT LOSE IT'S PLENARY POWER. THIS INTENTIONAL ACT VIOLATED PETITIONER'S RIGHT TO DUE PROCESS.

THE COURT ALSO FAILED TO GRANT PETITIONER DISCOVERY, WHICH WAS SUFFICIENT TO PROVE PETITIONER'S ALLEGATIONS. THE COURT'S ACTIONS CLEARLY DENIED PETITIONER DUE PROCESS BY VIOLATING STATE AND FEDERAL LAWS. CONSTITUTIONAL VIOLATIONS AND STATE LAW VIOLATIONS MADE THE COURT'S DECISION UNLAWFUL AND ERRONEOUS.

DUE TO THE ABOVE, PETITIONER SHOULD BE GRANTED THE OPPORTUNITY TO HAVE A JURY TRIAL WITH DISCOVERY.

CONCLUSION

THE PETITION FOR A WRIT OF CERTIORARI SHOULD BE GRANTED.

RESPECTFULLY SUBMITTED,

_____

DATED:_____

THE SUPREME COURT OF TEXAS
POST OFFICE BOX 12248
AUSTIN, TEXAS 78711 (512) 463-1312

MAY 20, 1999

Mr. James B. Pinson
Office of the Attorney General of Texas
Post Office Box 12548
Austin, Tx. 78711-2548

RE: Case Number 99-0136
Court of Appeals Number: 10-98-00323-CV
Trial Court Number: 95-341-1

Style: ROD LEE SMITH
v.
STATE OF TEXAS, TEXAS ATTORNEY GENERAL OFFICE, CHILD SUPPORT ENFORCEMENT DIVISION, DAN MORALES, MARK K. MORRIS, and PAT FREEMAN

Dear Counsel:

Today, the Supreme Court of Texas overruled the motion for rehearing in the above styled petition for review.

Sincerely,

John T. Adams, Clerk

by Matthew D. Melton, Deputy

cc: Sharri Roessler, Clerk
Mr. Joe Johnson
Mr. Rod L. Smith

APPENDIX A

MANDATE

THE STATE OF TEXAS

TO THE 19TH JUDICIAL DISTRICT COURT OF MCLENNAN COUNTY, GREETING:

Before our Court of Appeals on the 23rd day of December A.D. 1998, the cause upon appeal to reverse your judgment between

ROD LEE SMITH, Appellant(s)

Trial Court No. 95-314-1 and
Court of Appeals No. 10-98-323-CV

THE STATE OF TEXAS, ET AL., Appellee(s)

was determined; and therein our said Court of Appeals made its order in these words:

"This cause came on to be heard on the transcript of the record, and the same being considered, because it is the opinion of this Court that the appeal should be dismissed; it is therefore ordered, adjudged and decreed that the appeal be, and hereby is, dismissed for want of jurisdiction in accordance with the opinion of this court. It is further ordered that Appellant Rod Lee Smith pay all costs in this behalf expended and that this decision be certified below for observance."

WHEREFORE WE COMMAND YOU to observe the order of our said Court of Appeals in this behalf, and in all things to have it duly recognized, obeyed and executed.

WITNESS the Hon. REX D. DAVIS, CHIEF Justice of our said Court of Appeals for the Tenth District of Texas, with the seal thereof annexed, at the City of Waco, this 7th day of June, A.D. 1999.

SHARRI ROESSLER, CLERK

APPENDIX B

THE SUPREME COURT OF TEXAS
Post Office Box 12248
Austin, Texas 78711 (512) 463-1312

April 01, 1999

Mr. James B. Pinson
Office of the Attorney General of Texas
Post Office Box 12548
Austin, Tx 78711-2548

RE: Case Number 99-0136
Court of Appeals Number: 10-98-00323-CV
Trial Court Number: 95-341-1

Style: ROD LEE SMITH
v.
STATE OF TEXAS, TEXAS ATTORNEY GENERAL OFFICE, CHILD SUPPORT ENFORCEMENT DIVISION, DAN MORALES, MARK K. MORRIS, and PAT FREEMAN

Dear Counsel:

Today, the Supreme Court of Texas denied the petition for review in the above styled case.

Sincerely,

John T. Adams, Clerk

by Blanca E. Morin, Deputy

cc: Ms. Sharri Roessler, Clerk
Mr. Joe Johnson
Mr. Rod L. Smith

APPENDIX C

19TH DISTRICT COURT
MCLENNAN COUNTY COURTHOUSE
501 Washington Ave., Rm. 303
Waco, Texas 76701
(254) 757-5081)
fax (254) 757-5060

BILL LOGUE
JUDGE

September 22, 1998

Mr. Rod L. Smith
3620 Kenwood
Waco, Texas 76706

In Re: 95-314-1
Smith v. State of Texas

Dear Mr. Smith

While out of my office, I received a letter from you concerning a copy of the order in the above-styled cause. I have checked with the District Clerk and apparently neither the clerk nor opposing counsel sent you a copy of the order. I'm enclosing a copy of the order signed August 25, 1998.

Sincerely,

Bill Logue

BL/mew
Copy: Mr. James Pinson

APPENDIX D

B-o-u-i-l-l-i-o-n, I believe -- and that case which went up to the Texas Supreme Court held that there is no cause of action for damages under the Texas Constitution.

THE COURT: All right, sir. Thank you.

MR. PINSON: Thank you.

THE COURT: All right. I'll consider the argument that has been made and the cases cited, and I will get something off to you if not this week, next week. Thank you.

MR. PINSON: Thank you, Your Honor.

(Hearing concluded)

APPENDIX E

DATE:12/02/98 DISTRICT COURT FEE SYSTEM PAGE 1
TIME: 10:00:02 CIVIL DOCKET SHEET

CAUSE NO: 95-0314-1 ACTION NO:1 FILE DATE: 01/27/95
R. SMITH VS STATE OF TEXAS ETAL

PARTIES TO THE CASE	P/D ATTORNEY
01 SMITH, ROD LEE	P 01 SMITH, ROD LEE
02 TEXAS, STATE OF	D 02 ECCLES, ALLISON H
03 TEXAS ATTNY. GENERAL	D 02 ECCLES, ALLISON H
04 MORRIS, MARK K.	D 02 ECCLES, ALLISON H
05 FREEMAN, PAT	D 02 ECCLES, ALLISON H

DATE	PARTY	COURT PROCEEDINGS
1/27/95	1	A NEW SUIT FORM
1/27/95	1	A NOTICE
1/27/95	1	A PLAINTIFF'S ORGIGINAL PETITION AND JURY DEMAND
1/31/95	4	I CITATION RETURNED & FILED SHOWING SERVICE
	4	ON DEFENDANT MORRIS, MARK ON 1/30/95
	4	I ** SERVED TO MORRIS, MARK K FILED
	4	BY SHERIFF MCLENNAN COUNTY, TX.
2/03/95		SERVICE OF CITATIONS
2/08/95		ORDER FOR PRIVATE PROCESS SERVICE
2/08/95	1	I REQUEST FOR ISSUANCE
2/08/95	5	CITATION RETURNED AND FILED SHOWING SERVICE
	5	I ON DEFENDANT FREEMAN, PAT ON 2/01/95
	5	I ** SERVED TO MAIL **
	5	I BY SHERIFF MCLENNAN COUNTY, TX
2/17/95	2	I CITATION RETURNED & FILED SHOWING SERVICE

	2	I ON DEFENDANT TEXAS, STATE OF ON 2/13/95
	2	I ** SERVED TO TEXAS, STATE OF **
	2	I BY OTHER MCLENNAN COUNTY, TEXAS
2/17/95	3	I CITATION RETURNED AND FILED SHOWING SERVICE
	3	I ON DEFENDANT TEXAS ATTNY GENERAL ON 2/13/95
	3	I ** SERVED TO TEXAS ATTNY. GENERAL
	3	I BY OTHER MCLENNAN COUNTY, TEXAS
2/20/95	2	A COVER LETTER
2/20/95	2	A DEFENDANTS' PLEA TO THE JURISDICTION, SPECIAL EXCEPTION ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES. (ALL DEFT'S)
2/22/95	1	I NOTICE OF OPPOSITION TO DEFENDANTS' PLEA TO THE JURISDICTION, SPECIAL EXCEPTIONS, ORIGINAL ANSWER & AFFIRMATIVE DEFENSES
3/08/95	1	I PLAINTIFF'S FIRST REQUEST FOR DISCOVERY, INSPECTION & PRODUCTION OF DOCUMENTS
3/08/95	1	I REQUEST FOR ADMISSIONS
3/08/95	1	I REQUEST FOR ADMISSIONS
3/10/95	2	A COVER LETTER
3/10/95	2	A NOTICE OF ORAL HEARING/ 3/20/95 AT 1:30 PM
3/13/95	1	I NOTICE OF OPPOSTION TO DEFENDANTS' NOTICE OF ORAL HEARING
3/27/95	1	A MOTION FOR CONTEMPT OF COURT
3/29/95	2	A MOTION FOR EXTENSION
3/29/95		DOCKET ENTRY-RULING HELD IN ABEYANCE FOR 15 DAYS. BOTH SIDES GIVEN OPPORTUNITY TO FILE BRIEF. BILL LOGUE, JUDGE

4/12/95	1	I BRIEF FROM PLAINTIFF, ROD LEE SMITH
4/17/95	1	I MOTION FOR CONTEMPT OF COURT
4/26/95		ORDER (GRANTING DEFENDANTS' MOTION FOR EXTENSION)
4/27/95		MAILED NOTICE OF APPEALABLE ORDER TO PARTIES AND/OR C/O ATTORNEY
5/08/95		ORDER
5/11/95		MAILED NOTICES TO ALL PARTIES / JSW
5/19/95	1	A REQUEST FOR FINDING OF FACT & CONCLUSIONS OF LAW
5/23/95	1	I NOTICE OF APPEAL
5/23/95	1	I LETTER TO JOE JOHNSON, DISTRICT CLERK (REGARDING INCORRECT ZIP CODE)
5/30/95	2	A COVER LETTER
5/30/95	2	DEFENDANTS' OBJECTIONS TO PLAINTIFF'S REQUEST FOR FINDINGS OF FACT & CONCLUSIONS OF LAW
5/30/95		ORDER (OBJECTIONS GRANTED)
6/01/95		MLD NOTICES TO THE PARTIES OR C/O OF THE ATTY'S / LR
6/01/95	1	A COST BOND ON APPEAL
6/01/95	1	A REQUEST FOR PREPARATION OF STATEMENT OF FACTS
6/01/95	1	A REQUEST TO PREPARE AND FILE TRANSCRIPT
6/27/95		TRANSCRIPT DELIVERED TO 10TH COURT OF APPEALS JS
5/29/96		OPINION
3/19/97		NOTICE OF INTENT TO DISMISS MAILED
4/02/97		NOTICE OF INTENT TO DISMISS RETURNED LEFT PENDING PER ROD SMITH
6/09/97		MANDATE
6/17/97	1	I MOTION REQUESTING REINSTATEMENT OF REQUEST FOR ADMISSIONS, REQUEST FOR DISCOVERY, INSPECTION AND PRODUCTION OF DOCUMENTS
6/30/97		LETTER/DATED 6/30/97 DIRECTED TO COUNSEL-

6/30/97			I	NOTICE OF TRIAL DATE
7/24/97	1	I		MOTION TO ENFORCE DISCOVERY
8/11/97	1	I		MOTION REQUESTING PRE-TRIAL CONFERENCE AND MOTION REQUESTING COURT RULING ON PRIOR REQUESTS FOR DISCOVERY
9/02/97				LETTER DATED 9-2-97
9/08/97	3	A		DEFENDANTS MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT
9/19/97	1	A		NOTICE OF OPPOSITION TO DEFENDANTS NOTICE OF HEARING AND MOTION FOR SUMMARY JUDGMENT
10/10/97				DEFENDANTS MOTION FOR SUMMARY JUDG-GRANTED, DERWOOD JOHNSON, JUDGE PRES
10/14/97	3	A		COVER LETTER DATED 10-13-97
10/14/97	3	A	A	FINAL SUMMARY JUDGMENT (SIGNED 10-14-97) YR
10/14/97				NOTICE OF APPEALABLE ORDER MAILED TO PARTIES AND/OR C/O ATTORNEY
10/22/97	1	I		REQUEST FOR FINDING OF FACTS AND CONCLUSIONS OF LAW
10/28/97	1	I		NOTICE OF APPEAL
10/29/97				COST BOND ON APPEAL
11/05/97	1	I		REQUEST TO PREPARE AND FILE TRANSCRIPT
11/05/97	1	I		REQUEST FOR PREPARATION OF STATEMENT OF FACTS
11/13/97				CLERK'S RECORD SENT TO THE 10TH COURT OF APPEALS / JG
11/17/97	1	I		SECOND REQUEST TO PREPARE AND FILE TRANSCRIPT
11/21/97				CLERK'S SUPPLEMENTAL RECORD SENT TO THE 10TH COURT OF APPEALS / JG
11/24/97	1	I		NOTICE OF PAST DUE FINDINGS OF FACT AND CONCLUSIONS OF LAW
12/01/97	3	A		LETTER DATED 11-24-97 REQUESTING 2ND

SUPPLEMENTAL CLERKS RECORD

12/05/97			DELIVERED 2ND SUPPLEMENTAL CLERK'S RECORD TO THE 10TH COURT OF APPEALS / JG
5/20/98			COVER LETTER
5/20/98			OPINION
5/26/98	1	I	LETTER DATED 5/26/98 TO JAMES PINSON, AG, AUSTIN
5/26/98	1	I	MOTION REQUESTING REINSTATEMENT OF REQUESTS FOR ADMISSIONS, REQUEST FOR DISCOVERY, INSPECTION AND PRODUCTION OF DOCUMENTS
5/26/98	1	I	NOTICE OF TRIAL DATE (7/20/98 AT 10:00AM)
6/26/98	3	A	LETTER DATED JUNE 25TH, 1998
6/26/98	3	A	NOTICE OF HEARING ON SPECIAL EXCEPTIONS OF STATE OF TEXAS
7/02/98	1	A	NOTICE OF OPPOSITION TO DEFENDANTS HEARING ON SPECIAL EXCEPTION OF STATE OF TEXAS
7/02/98	1	I	NOTICE OF OPPOSITION TO DEFENDANTS' HEARING ON SPECIAL EXCEPTION OF STATE OF TEXAS
7/02/98			ORDER
7/02/98			**TESTIMONY TAKEN BY RACHELL KARR**
7/06/98			MAILED NOTICES TO PARTIES - PD
7/31/98	1	I	AMENDED ORIGINAL PETITION (YR)
8/07/98	3	A	LETTER DATED AUGUST 5TH, 1998
8/07/98	3	A	NOTICE OF RESETTING OF HEARING
8/11/98			MANDATE
8/13/98			TESTIMONY TAKEN BY RACHELL KARR
8/21/98			DOCKET SHEET ENTRY-ORDER STRIKING PLEADING AND DISMISSING SUIT WITH PREJUDICE TO BE FILED HEREIN. BILL LOGUE, JUDGE
8/26/98	3	A	COVER LETTER
8/26/98	3	A	FINAL ORDER

9/22/98			REQUEST FOR FINDING OF FACT AND CONCLUSIONS OF LAW
10/02/98			COST BOND ON APPEAL
10/05/98	1	I	NOTICE OF APPEAL
10/05/98	1	I	REQUEST FOR PREPARATION OF STATEMENT OF FACTS
10/05/98	1	I	LETTER DATED 9-15-98 TO THE JUDGE
10/05/98			LETTER DATED 9-17-98 FROM THE ATTNY. GENERAL'S OFFICE
10/05/98			LETTER DATED 9-22-98 FROM THE 19TH DISTRICT COURT
10/12/98			TOOK COPY OF NOTICE TO 10TH COURT OF APPEALS / JG
10/20/98	1	A	REQUEST TO PREPARE AND FILE TRANSCRIPT
10/23/98			DELIVERED CLERK'S RECORD TO THE 10TH COURT OF APPEALS/JG
10/26/98	1	I	COVER LETTER
10/26/98	1	I	LETTER (IN RE FEES)
10/26/98			RESPONSE TO LETTER FROM ROD SMITH
10/27/98	3	A	LETTER DATED OCTOBER 26TH, 1998
10/27/98	3	A	DEFENDANTS' DESIGNATION OF ADDITIONAL ITEMS TO BE INCLUDED IN THE CLERK'S RECORD
10/28/98	1	I	NOTICE OF PAST DUE FINDINGS OF FACT & CONCLUSIONS OF LAW
11/05/98			SENT COPY OF NOTICE TO THE 19TH COURT / JG
11/09/98	3	A	FAX COVER LETTER DATED 11-9-98
11/09/98	3	A	COPY OF LETTER DATED 7-2-98 TO ROD SMITH & JAMES PINSON FROM 19TH DISTRICT COURT
11/10/98			DELIVERED CLERK'S SUPPLEMENTAL RECORD TO THE 10TH COURT OF APPEALS / JG